REMARKS/ARGUMENTS

This Response is in response to the Office Action dated September 17, 2005. Claims 1-29 are pending. Claims 1-9 are rejected, and claims 10-29 are allowed. Claims 1-29 remain pending in the present application.

In a prior Office Action dated September 17, 2004, the Examiner signed Applicant's form PTO-1449 filed February 28, 2002 and initialed the reference cited therein. The present Office Action failed to indicate, however, that the Examiner considered Applicant's IDS filed July 2, 2003. Applicant's hereby request Examiner to indicate his consideration of the July 2, 2003 IDS in the Examiner's reply to this Response.

The Examiner rejected claims 1-9 under 35 USC §103(a) as being unpatentable over McIntyre et al. (US 200301544178) in view of Skidgel et al. (US 20020093678). Applicants respectfully disagree.

The present invention provides an automation application, which when run on a user's computer, automatically discovers any existing metadata in image files, automatically analyzes the images and assigns new metadata based on the content of the images, allows the user to edit the images and to edit or add metadata to the images, and finally submits the images and metadata to a photosharing website.

McIntyre discloses a method for automatically updating metadata for an image with new information. The user may use an image management application on the user computer to track non-image data (metadata) entered automatically by the camera or manually by the user. A remote image server accessible by the computer offers online photofinishing services and includes image utilization applications that may be accessed by users and third parties for creating and editing online albums, to order

image products, and to add captions and comments. The captions and comments are saved for later use. The photo album owner is then provided an opportunity to download the comments and have them automatically added to the metadata of the corresponding images stored on a user's computer.

Applicants agree with the Examiner that McIntyre fails to disclose "displaying both the pre-existing and automatically assigned metadata values to the user for viewing and editing," as recited in claim 1. McIntyre also fails to teach or suggest other recitation of the independent claims as well.

To begin, the automation application of the present invention is the entity that populates the image with new metadata (i.e., metadata that was not added automatically by the camera or manually by the user). In addition, the metadata is discovered automatically by the automation application on the client computer. In McIntyre, by contrast, the new metadata is manually entered by people (either the user or a third party) on the remote server.

McIntyre further fails to teach or suggest "automatically analyzing the content of a first file and assigning one or metadata values to the downloaded metadata fields based on the analysis," as recited in claim 1. Paragraph 48 of McIntyre cited by the Examiner describes that the metadata of an image in the user's computer is updated by transferring an XML file that includes the new metadata from the server to the computer. McIntyre describes that the XML file can be acted upon without user intervention by executable code, such as plug-ins. However, the executable code or plug-in does not "analyze the content" of the image file and then assign "metadata values" to the metadata fields. In fact, nothing in McIntyre teaches or suggests software capable of analyzing the content of an image file (as opposed to the image's

metadata).

In addition, McIntyre fails to teach or suggest "downloading" new or additional metadata fields from the remote server to be included in the image. In McIntyre, a user may download digital images from the remote server to the computer, in which case the metadata is transferred with the image at the same time, but no additional metadata fields other than originally specified when the image was uploaded are provided. In the claims of the present invention, metadata *fields* are downloaded from the server that do not contain values until populated by the automation application after image analysis. In McIntyre, it is metadata *values* that are downloaded with the images to the user's computer, rather than just metadata fields. Also, in the present invention the metadata fields are downloaded from the server *before* the images are uploaded to the server. In McIntyre, the images with the non-image data are downloaded from the server to the user's computer *after* images are uploaded to the server and annotated by the user or third parties.

Skidgel was cited for disclosing the display of both pre-existing and automatically assigned metadata values to the user. However, a secondary reference stands or falls with the primary reference. Because McIntyre fails to teach or suggest an automated metadata discovery, assignment, and submission system, as described above, a combination of McIntyre with Skidgel also fails to teach or suggest the claimed invention. Accordingly, claim 1 is patentable over the references for at least the reasons set forth above.

The arguments above apply with full force and effect to the remaining dependent claims because they are based on allowable independent claims. Therefore, dependent claims 2-9 are allowable for at least the same reasons as the independent

claims.

In view of the foregoing, it is submitted that claims 1-9 are allowable over the cited references. Accordingly, Applicant respectfully requests reconsideration and passage to issue of claims 1-29 as now presented.

Applicants' attorney believes this application in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted,

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January 18, 2005

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